

AMENDED IN ASSEMBLY AUGUST 24, 2010
AMENDED IN ASSEMBLY AUGUST 20, 2010
AMENDED IN ASSEMBLY AUGUST 16, 2010
AMENDED IN ASSEMBLY JUNE 24, 2010
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AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 220

Introduced by Senator Yee
(Coauthor: Assembly Member Hill)

February 23, 2009

An act to add Sections 1367.002 and 1367.002.1 to the Health and Safety Code, and to add Sections 10112.2 and 10112.21 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Yee. Health care coverage: preventive health services: tobacco cessation.

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms. With respect to plan years beginning on and after September 23, 2010, the act requires health insurance issuers to provide coverage, and not impose cost-sharing requirements, for certain preventive health services. PPACA

also requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law requests the University of California to establish the California Health Benefits Review Program to assess legislation proposing to mandate a benefit or service and legislation proposing to repeal a mandated benefit or service, as specified.

This bill would require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after September 23, 2010, to provide coverage, and not impose cost-sharing requirements, for certain preventive health services consistent with federal law.

The bill would also require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2011, to provide coverage for tobacco cessation treatment that includes specified courses of treatment and medication. The bill would request the University of California, as part of the California Health Benefits Review Program, to prepare a report regarding ~~the any state savings to the health care system~~ as a result of this coverage requirement. The bill would make the coverage requirement inoperative upon a determination ~~by the American Health Benefit Exchange established in California~~ that it will result in the state assuming additional costs, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares the
2 following:

3 (a) It is the intent of the Legislature that this act diminish the
4 statewide economic and personal cost of tobacco addiction by
5 making tobacco cessation treatments available to all smokers.

6 (b) Cigarette smoking and other uses of tobacco remain the
7 leading cause of preventable death in California, as well as the
8 cause of many other serious health problems, including heart
9 disease, emphysema, and other chronic illnesses.

10 (c) The treatment of tobacco-related diseases continues to
11 impose a significant burden on California's health care system,
12 including local and state funded health care systems. Tobacco use
13 costs Californians billions of dollars a year in medical expenses
14 and lost productivity.

15 (d) Providing tobacco cessation counseling and medication is
16 one of the most clinically effective and cost-effective health
17 services available, second only to inoculations.

18 (e) Reducing the smoking rate in California by one percentage
19 point will result in approximately \$91 million saved over five years
20 from fewer smoking-caused heart attacks and strokes.

21 (f) The United States Public Health Service Clinical Practice
22 Guideline entitled Treating Tobacco Use and Dependence has
23 identified the medications and counseling that are scientifically
24 proven to be effective in helping smokers quit.

25 SEC. 2. Section 1367.002 is added to the Health and Safety
26 Code, to read:

27 1367.002. To the extent required by federal law, a group or
28 individual health care service plan contract that is issued, amended,
29 renewed, or delivered on or after September 23, 2010, shall comply
30 with the requirements of Section 2713 of the federal Public Health
31 Service Act (42 U.S.C. Sec. 300gg-13), as added by Section 1001
32 of the federal Patient Protection and Affordable Care Act (Public
33 Law 111-148), and any subsequent rules or regulations issued
34 pursuant to that section.

35 SEC. 3. Section 1367.002.1 is added to the Health and Safety
36 Code, to read:

37 1367.002.1. (a) (1) A health care service plan contract issued,
38 amended, renewed, or delivered on or after January 1, 2011, shall

1 cover a minimum of two courses of treatment in a 12-month period
2 for all smoking cessation treatments rated “A” or “B” by the United
3 States Preventive Services Task Force, which shall include
4 counseling and over-the-counter medication and prescription
5 pharmacotherapy approved by the federal Food and Drug
6 Administration.

7 (2) The coverage provided pursuant to this section shall only
8 be available upon the order of an authorized provider. Nothing in
9 this section shall preclude a health care service plan from allowing
10 enrollees to access tobacco cessation services on a self-referral
11 basis.

12 (3) As used in this section, “course of treatment” shall be defined
13 to consist of the following:

14 (A) As applied to counseling, at least four sessions of
15 counseling, which may be telephone, group, or individual
16 counseling with each session lasting at least 10 minutes.

17 (B) As applied to a prescription or over-the-counter medication,
18 the duration of treatment approved by the federal Food and Drug
19 Administration for that medication.

20 (4) Enrollees shall not be required to enter counseling in order
21 to receive tobacco cessation medications after the patient’s first
22 course of treatment.

23 (5) A health care service plan may not impose prior authorization
24 or stepped-care requirements on tobacco cessation treatments after
25 the patient’s first course of treatment.

26 (b) This section shall not apply to Medicare supplement plan
27 contracts or to specialized health care service plan contracts.

28 (c) The Legislature hereby requests that the University of
29 California, as part of the California Health Benefits Review
30 Program established under Section 127660, prepare a report by
31 December 31, 2013, evaluating the requirements of this section
32 and determining ~~the savings to the health care system~~ *any state*
33 *savings* as a result of those requirements. The Legislature requests
34 that this report be made available to the Legislature ~~and the~~
35 ~~Exchange, the Department of Insurance, and the Department of~~
36 *Managed Health Care*.

37 (d) This section shall become inoperative on the date that the
38 ~~Exchange~~ *state* determines that, *taking into account any state*
39 *savings identified under subdivision (c)*, the requirements of this
40 section will result in the state assuming additional costs pursuant

1 to subparagraph (B) of paragraph (3) of subsection (d) of Section
2 1311 of the federal Patient Protection and Affordable Care Act
3 (Public Law 111-148), as amended by subsection (e) of Section
4 10104 of Title X of that act.

5 ~~(e) For purposes of this section, “Exchange” means the~~
6 ~~American Health Benefit Exchange established in California~~
7 ~~pursuant to Section 1311 of the federal Patient Protection and~~
8 ~~Affordable Care Act (Public Law 111-148).~~

9 SEC. 4. Section 10112.2 is added to the Insurance Code, to
10 read:

11 10112.2. To the extent required by federal law, a group or
12 individual health insurance policy that is issued, amended, renewed,
13 or delivered on or after September 23, 2010, shall comply with
14 the requirements of Section 2713 of the Public Health Service Act
15 (42 U.S.C. Sec. 300gg-13), as added by Section 1001 of the Patient
16 Protection and Affordable Care Act (Public Law 111-148), and
17 any subsequent rules or regulations issued pursuant to that section.

18 SEC. 5. Section 10112.21 is added to the Insurance Code, to
19 read:

20 10112.21. (a) (1) A health insurance policy issued, amended,
21 renewed, or delivered on or after January 1, 2011, shall cover a
22 minimum of two courses of treatment in a 12-month period for all
23 smoking cessation treatments rated “A” or “B” by the United States
24 Preventive Services Task Force, which shall include counseling
25 and over-the-counter medication and prescription pharmacotherapy
26 approved by the federal Food and Drug Administration.

27 (2) The coverage provided pursuant to this section shall only
28 be available upon the order of an authorized provider. Nothing in
29 this section shall preclude an insurer from allowing insureds to
30 access tobacco cessation services on a self-referral basis.

31 (3) As used in this section, “course of treatment” shall be defined
32 to consist of the following:

33 (A) As applied to counseling, at least four sessions of
34 counseling, which may be telephone, group, or individual
35 counseling with each session lasting at least 10 minutes.

36 (B) As applied to a prescription or over-the-counter medication,
37 the duration of treatment approved by the federal Food and Drug
38 Administration for that medication.

1 (4) Insureds shall not be required to enter counseling in order
2 to receive tobacco cessation medications after the patient's first
3 course of treatment.

4 (5) A health insurer shall not impose prior authorization or
5 stepped-care requirements on tobacco cessation treatments after
6 the patient's first course of treatment.

7 (b) This section shall not apply to Medicare supplement policies
8 or to specialized health insurance policies.

9 (c) The Legislature hereby requests that the University of
10 California, as part of the California Health Benefits Review
11 Program established under Section 127660 of the Health and Safety
12 Code, prepare a report by December 31, 2013, evaluating the
13 requirements of this section and determining ~~the savings to the~~
14 ~~health care system~~ *any state savings* as a result of those
15 requirements. The Legislature requests that this report be made
16 available to the Legislature ~~and the Exchange, the Department of~~
17 *Insurance, and the Department of Managed Health Care.*

18 (d) This section shall become inoperative on the date that the
19 ~~Exchange~~ *state* determines that, *taking into account any state*
20 *savings identified under subdivision (c)*, the requirements of this
21 section will result in the state assuming additional costs pursuant
22 to subparagraph (B) of paragraph (3) of subsection (d) of Section
23 1311 of the federal Patient Protection and Affordable Care Act
24 (Public Law 111-148), as amended by subsection (e) of Section
25 10104 of Title X of that act.

26 ~~(e) For purposes of this section, "Exchange" means the~~
27 ~~American Health Benefit Exchange established in California~~
28 ~~pursuant to Section 1311 of the federal Patient Protection and~~
29 ~~Affordable Care Act (Public Law 111-148).~~

30 SEC. 6. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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